THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.6334 of 2003

Dated:15.06.2007

Between:

Alapati Soma Raju.

…Petitioner

and

The Agent to Government, District Collector and another.

…Respondents

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AND
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ORDER: (Per the Hon'ble Sri Justice V.V.S.Rao)

The petitioner is non-tribal. He purchased an extent of Ac.1.71 cents of land in R.S.No.505/3 and Acs.2.07 cents in R.S.No.554/2 situated at Buttaigudem Village in West Godavari District. This land allegedly never belonged to Tribals in the agency area. The Special Deputy Collector (Tribal Welfare), Kota Ramachandrapuram, initiated action under Section 3(2)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) as amended by Regulation I of 1970 (hereinafter called 'the Regulation'). After receiving notice, the petitioner opposed the proceedings for ejectment. He also produced evidence in support of his contention that the land in his possession is never tribal land. However, accepting the plea, the Special Deputy Collector disallowed the case, being S.R.No.92 of 1996, through order, dated 10.01.1996. The Special Deputy Tahsildar (Tribal Welfare), Kota Ramachandrapuram, filed appeal in 2003. The same was registered as S.R.A.No.108 of 2003 by the first respondent, who issued notice of enquiry. Assailing the said notice, this Writ Petition is filed.

Learned counsel for the petitioner submits that the action of the

first respondent in entertaining appeal under Section 3(2)(a) of the Regulation after lapse of seven years without there being any application for condonation of delay is improper, and entertaining appeal filed after a period of limitation amounts to acting without jurisdiction. **Per contra**, learned Government Pleader for Social Welfare invites the attention of this Court to Section 3(2)(a) of the Regulation and Rule 8 of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 (for short 'the Rules'), and submits that for sufficient reasons, delay in filing the appeal can be condoned. He, however, does not dispute that the Special Deputy Tahsildar while preferring appeal after a period of seven years did not file any application for condonation of delay.

In the background of facts, as briefly narrated hereinabove, it has come out that the appeal was indeed filed after a period of seven years without proper application for condonation of delay. In the absence of such application, entertaining appeal and issue of notice of enquiry by the first respondent cannot be sustained in law. Be it noted that under Rule 8(2) of the Rules, an appeal is to be filed within a period of two months from the date of order of the original authority, and under Section 3(2)(b) of the Regulation power is vested in the appellate authority to entertain appeal on sufficient cause being shown after expiry of the period of limitation. Even now, it is open to the Special Deputy Tahsildar (Tribal Welfare) to file proper application before the first respondent for condonation of delay. This application, it goes without saying, has to be considered by the first respondent after issuing notice to the petitioner. Only after condonation of delay for sufficient cause the second respondent can proceed further. In case sufficient cause is not shown and there are no proper reasons for filing appeal with abnormal delay of seven years, the appeal cannot be entertained.

These Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

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(G.V.SEETHAPATHY, J)

15.06.2007
Note:Issue C.C. in one week.

(B/o)
GJ